

## Message Text

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ORIGIN EPA-04

INFO OCT-01 ISO-00 FEA-01 AID-05 CEQ-01 CIAE-00  
ERDA-07 COME-00 DODE-00 EB-08 INR-07 IO-14 L-03  
NSF-02 NSC-05 NSAE-00 PM-05 USIA-15 OES-07 SS-15  
SP-02 INT-05 SIG-02 /109 R

DRAFTED BY EPA/OTS:TSHUGART; C. KELLY  
APPROVED BY OES/ENP/EN:DKING  
EPA/A-106:DTOAKLEY  
EPA/A-106:ABPOPKIN  
OES/ENP/EN:JBLANCHARD  
EB/OT/STA:GWHITE

-----095005 292039Z /63

P 291619Z SEP 77  
FM SECSTATE WASHDC  
TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY

UNCLAS STATE 234479

INFORM CONSULS

E.O. 11652: N/A

TAGS: SENV

SUBJECT: SUPPLEMENTARY NOTICE AND DRAFT FORMS FOR  
PROPOSED INVENTORY REPORTING REGULATIONS UNDER SECTION  
8(A) OF THE U.S. TOXIC SUBSTANCES CONTROL ACT. (TSCA)

REF: STATE 186092

1. SUMMARY: ON AUGUST 2, 1977, EPA PUBLISHED IN THE  
FEDERAL REGISTER INVENTORY REPORTING REGULATIONS ON  
REPORTING OF CHEMICAL SUBSTANCES FOR INCLUSION ON AN  
INVENTORY OF CHEMICAL SUBSTANCES REQUIRED BY SECTION  
8(A) OF TSCA. THOSE REGULATIONS, WHICH REVISED EPA'S  
EARLIER PROPOSAL PUBLISHED ON MARCH 9, 1977, WERE MAILED  
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IN EARLY AUGUST TO ADDRESSEE POSTS. THE SUPPLEMENTARY  
NOTICE SUMMARIZED BELOW IS TO CLARIFY CERTAIN ASPECTS OF  
THE AUGUST 2 PROPOSAL, AND IS EXPECTED TO BE PUBLISHED IN  
THE FEDERAL REGISTER WITHIN A FEW DAYS. ALTHOUGH THE  
NOTICE HAS NOT YET BEEN SIGNED AND IS THEREFORE NOT YET  
OFFICIAL, POSTS ARE REQUESTED TO BRIEF HOST  
GOVERNMENTS AND APPROPRIATE TRADE ASSOCIATIONS.

2. THE PRINCIPAL ISSUE PRESENTED IN THE NOTICE CONCERNS EPA'S POLICY WITH RESPECT TO IMPORTERS OF CHEMICAL SUBSTANCES CONTAINED IN MIXTURES. THE AUGUST 2 PROPOSED REGULATIONS WOULD REQUIRE IMPORTERS TO REPORT FOR

THE INVENTORY THOSE CHEMICAL SUBSTANCES THEY HAVE IMPORTED INTO THE UNITED STATES FOR A COMMERCIAL PURPOSE SINCE JANUARY 1, 1977. THE PROPOSAL REVISED THE MARCH 9 REGULATIONS BY NOT REQUIRING IMPORTERS TO REPORT THE CHEMICAL SUBSTANCES WHICH ARE COMPONENTS OF THE ARTICLES THEY IMPORT. THE AUGUST 2 PROPOSAL LEFT UNCLEAR THE REPORTING REQUIREMENTS WITH RESPECT TO CHEMICAL SUBSTANCES IMPORTED IN MIXTURES.

3. THE NOTICE WILL CLARIFY THAT IMPORTERS OF MIXTURES AND ARTICLES ARE PERMITTED, BUT NOT REQUIRED, TO REPORT ANY CHEMICAL SUBSTANCE WHICH IS A COMPONENT AND WHICH HAS BEEN IMPORTED SINCE JANUARY 1, 1975. IMPORTERS MAY REPORT THESE SUBSTANCES EITHER DURING THE INITIAL REPORTING PERIOD OR DURING A 120-DAY PERIOD FOLLOWING PUBLICATION OF THE INITIAL INVENTORY.

4. THESE REPORTING PROVISIONS MUST BE UNDERSTOOD, HOWEVER, IN CONTEXT OF EPA'S PROPOSED IMPLEMENTATION OF SECTION 5(A) (1) (A) OF TSCA CONCERNING PREMANUFACTURE NOTIFICATION.

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SECTION 5 OF THE TSCA ACT. UNDER SECTION 5, NO PERSON MAY MANUFACTURE A NEW CHEMICAL SUBSTANCE (ONE WHICH IS NOT ON THE INVENTORY) WITHOUT FIRST SUBMITTING NOTIFICATION TO EPA AT LEAST 90 DAYS PRIOR TO MANUFACTURING THE SUBSTANCE FOR COMMERCIAL PURPOSES. AS EXPLAINED IN THE NOTICE, EPA WOULD APPLY THE PREMANUFACTURE NOTIFICATION REQUIREMENTS TO IMPORTERS OF CHEMICAL SUBSTANCES IN MIXTURES (BUT NOT, REPEAT, NOT ARTICLES) AS WELL AS TO IMPORTERS OF CHEMICAL SUBSTANCES IN BULK. ACCORDINGLY, IMPORTERS SHOULD ENSURE DURING THE REPORTING PERIODS FOR COMPILATION OF THE INVENTORY THAT ANY CHEMICAL SUBSTANCE WHICH IS IMPORTED EITHER IN BULK FORM OR IN A MIXTURE BE INCLUDED ON THE INVENTORY.

5. THE NOTICE WILL PROVIDE SEVERAL REASONS FOR THIS APPROACH TO IMPLEMENTING SECTION 5 PREMANUFACTURE NOTIFICATION REQUIREMENTS. FIRST, IF EPA DID NOT REQUIRE IMPORTERS TO REPORT ANY NEW CHEMICAL SUBSTANCES CONTAINED IN AN IMPORTED MIXTURE, FIRMS ABROAD COULD MANUFACTURE NEW CHEMICAL SUBSTANCES, MIX THEM WITH WATER OR OTHER SOLVENTS, AND EXPORT THEM TO THE UNITED STATES AS A MIXTURE. THIS WOULD DISCRIMINATE AGAINST MANUFACTURERS OF NEW CHEMICAL

SUBSTANCES IN THE U.S. AND ENCOURAGE THEM TO MOVE AT LEAST PART OF THEIR OPERATIONS ABROAD. WITH RESPECT TO ARTICLES, COMMENT IN RESPONSE TO THE MARCH 9 PROPOSAL ARGUED THAT IT WOULD BE EXTREMELY BURDENSOME TO IDENTIFY THE CONSTITUTENT CHEMICAL SUBSTANCES IN IMPORTED ARTICLES. THE VALUE OF THE COMPONENT CHEMICAL SUBSTANCE(S) IS LIKELY

TO BE SMALL IN PROPORTION TO THE VALUE OF THE ARTICLE ITSELF. AS COMPARED WITH CHEMICAL SUBSTANCES CONTAINED IN MIXTURES, THE BURDEN OF REPORTING WOULD BE PROPORTIONATELY GREATER. FURTHER, IT IS NOT LIKELY THAT DOMESTIC MANUFACTURERS WOULD BE PLACED AT A SERIOUS DISADVANTAGE IF THE IMPORTER IS NOT REQUIRED TO IDENTIFY THE SUBSTANCES CONTAINED IN ARTICLES. FINALLY, BECAUSE OF ITS FORM, THE UNCLASSIFIED

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HEALTH AND ENVIRONMENTAL RISK POSED BY A CHEMICAL SUBSTANCE IMPORTED IN AN ARTICLE IS LIKELY TO BE LESS THAN THE RISK PRESENTED BY A SUBSTANCE IMPORTED IN BULK FORM OR IN A MIXTURE.

6. THE NOTICE WILL ALSO PUBLISH DRAFT FORMS FOR REPORTING CHEMICAL SUBSTANCES FOR THE INVENTORY. IN PARTICULAR, THE NOTICE WILL SOLICIT COMMENT ON A FORM (FORM D) FOR REPORTING PRODUCT TRADEMARKS. TRADEMARKS WOULD NOT BE INCLUDED ON THE INVENTORY BUT WOULD BE PUBLISHED IN A SEPARATE LIST TO ACCOMPANY THE INVENTORY. THE PURPOSE OF THE LIST IS TO ALLOW MANUFACTURERS WHO DISTRIBUTE CHEMICAL SUBSTANCES UNDER PRODUCT TRADEMARKS TO ASSURE THEIR CUSTOMERS THAT THE CHEMICAL SUBSTANCES CONTAINED IN THE PRODUCTS THEY MANUFACTURE ARE INCLUDED ON THE INVENTORY. MANUFACTURERS WOULD HAVE TO CERTIFY THAT ALL THE COMPONENT CHEMICAL SUBSTANCES INCLUDED IN ANY LISTED TRADEMARKED PRODUCT HAVE BEEN REPORTED FOR THE INVENTORY.

7. ACTION REQUESTED: IN CONVEYING ABOVE INFORMATION, POSTS SHOULD POINT OUT THAT ALTHOUGH THE NOTICE HAS NOT YET RECEIVED FINAL EPA APPROVAL, WE ARE DISSEMINATING IT ABROAD AHEAD OF TIME SO THAT ADDITIONAL TIME WILL BE PERMITTED FOR COMMENT BEFORE THE OFFICIAL 30-DAY COMMENT PERIOD BEGINS: WE WILL NOTIFY POSTS AS SOON AS NOTICE APPEARS IN FEDERAL REGISTER AND MAILCOPIES OF SAME AS SOON THEREAFTER AS POSSIBLE. THIRTY DAY--AS OPPOSED TO 45 DAY COMMENT PERIOD FOR AUGUST 2 PROPOSED REGULATIONS--WAS NECESSITATED BY EPA REQUIREMENT THAT FINAL VERSION OF INVENTORY REGULATIONS BE PROMULGATED BY EARLY NOVEMBER. CHRISTOPHER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** FOOD & DRUG REGULATIONS, TOXINS & ANTITOXINS  
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**Drafter:** TSHUGART; C. KELLY  
**Enclosure:** n/a  
**Executive Order:** N/A  
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**Original Handling Restrictions:** n/a  
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**Previous Handling Restrictions:** n/a  
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**Review Release Event:** n/a  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** SUPPLEMENTARY NOTICE AND DRAFT FORMS FOR PROPOSED INVENTORY REPORTING REGULATIONS UNDER SECTION 8(A) OF THE U.S. TOXIC SUBSTANCES CONTROL ACT. (TS)  
**TAGS:** SENV, XX  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009